



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 1 – New England  
5 Post Office Square - Suite 100  
Boston, Massachusetts 02109-3912

BY HAND

September 17, 2012<sup>4 AT</sup>

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency – Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Re: *In the Matter of Bradford Soap International, Inc.*  
Docket No. FIFRA-01-2014-0061

Dear Ms. Santiago:

Enclosed for filing in the above-referenced action, please find the original and one copy of a Consent Agreement and Final Order settling the matter referenced above pursuant to 40 C.F.R. § 22.18(b) and a certificate of service.

Please contact me at (617) 918-1872 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kan Tham", with a long horizontal line extending to the right.

Kan Tham, FIFRA Enforcement Coordinator  
U.S. Environmental Protection Agency  
Region 1 (Mail Code OES05-4)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Enclosures

cc: Phil Young, Director, Bradford Soap Safety, Environmental, Health and Security  
Karen McGuire, Manager, Enforcement Counsel, U. S. EPA Region 1  
Sharon Hayes, Manager, Toxics and Pesticides Unit, U. S. EPA, Region 1  
Ken Ayars, Director, RI DEM, Division of Agriculture

**In The Matter Of:**

**Bradford Soap International, Inc.**

**200 Providence Street**

**West Warwick, RI**

**Respondent.**

## CONSENT AGREEMENT and FINAL ORDER

1. The United States Environmental Protection Agency-Region 1 ("EPA"), as Complainant, and Bradford Soap International, Inc. ("Bradford Soap" or "Respondent") enter into this Consent Agreement and Final Order ("CAFO") by mutual consent. The CAFO informs Respondent of EPA's intention to assess a penalty for alleged violations of Section 12 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended ("FIFRA"), 7 U.S.C. § 136j, and implementing regulations at 40 C.F.R. Part 167, Subpart E. The CAFO also informs Respondent of its right to request a hearing.

3. Therefore, before any hearing or the taking of any testimony, without adjudication of any issue of fact or law herein, the Parties agree to comply with the terms of this CAFO.

### **PRELIMINARY STATEMENT**

4. Respondent is a corporation organized under the laws of the State of Rhode Island with a place of business at 200 Providence Street, West Warwick, Rhode Island (the "Facility"). Respondent is a "person" as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

5. Pursuant to Sections 7(a) and (b) of FIFRA, 7 U.S.C. §§ 136e(a) and (b), and 40 C.F.R. § 167.20, on or about July 16, 1974, Respondent registered the Facility as a pesticide-producing establishment. EPA's national office in Washington, DC ("EPA Headquarters") assigned the Office of Pesticide Programs company number 034310. Subsequently, EPA Region 1 assigned the EPA Establishment Number 034310-RI-001 to the Facility.

6. Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), and the implementing regulations codified at 40 C.F.R. Part 167, Subpart E, require any producer operating a registered establishment to report to EPA the types and amounts of each pesticide product that it is currently producing, that it produced during the past year, and that it sold or distributed during the past year.

7. Under 40 C.F.R. § 167.85(d), a producer is responsible for obtaining, completing and reporting this information each year, even if it has not produced any pesticidal product for the reporting year. The information must be submitted to EPA, on a form available from EPA Headquarters, on or before March 1 of the year subsequent to the calendar year which is the subject of the report.

8. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), authorizes a civil penalty of up to \$5,000 against any registrant, commercial applicator, wholesaler, dealer, retailer or

other distributor for each violation of FIFRA. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by EPA's 2008 Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701, this amount was increased to \$6,500 for violations occurring after March 15, 2004, and to \$7,500 for violations occurring after January 12, 2009.

9. On or about August 30, 2012, EPA issued a Notice of Warning to Respondent in connection with the failure to file the Facility's annual report for calendar year 2011 on or before March 1, 2012.

10. On or about June 30, 2014, EPA issued an Opportunity to Show Cause to Respondent in connection with the failure to file the Facility's 2013 annual report on or before March 1, 2014. Respondent thereafter filed its 2013 report and also provided a copy of its 2011 report. Respondent also requested that its registration be deactivated.

11. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. For the purposes of this proceeding, Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying EPA's factual findings or allegations of violation herein, Respondent consents to the terms of this CAFO.

12. Respondent acknowledges that it has been informed of the right to request a hearing and hereby waives its right to request a judicial or administrative hearing on any issue of law or fact set forth in this CAFO. Respondent also waives its right to appeal the Final Order accompanying the Consent Agreement.

13. By signing this CAFO, Respondent certifies that it is presently operating in compliance with Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), and has fully addressed the violations alleged by EPA herein.

### **EPA FINDINGS**

14. EPA finds, based on its investigation of facts and circumstances underlying Respondent's participation as an owner or operator of a pesticide-producing establishment, that Respondent violated Section 7(c) of FIFRA, as further described.

15. During calendar years 2011 and 2013, the Facility was registered with EPA as a pesticide-producing establishment under Section 7(b) of FIFRA, 7 U.S.C. § 136e(b), and 40 C.F.R. Part 167.

16. EPA Headquarters mails annual reminder notices to registered pesticide-producing establishments of the FIFRA requirement to submit a production report. These reminders are mailed at least two months in advance of the March 1 reporting deadline. The reminder notices are sent as a courtesy to registered establishments, as there is no statutory or regulatory requirement for EPA to do so.

17. Respondent failed to submit timely a pesticide production report for the Facility for the calendar years 2011 and 2013.

18. Respondent's failure to submit timely a pesticide production report for calendar year 2013 constitutes a violation of Section 7(c)(1) of FIFRA and 40 C.F.R. Part 167, Subpart E. Such failure is unlawful pursuant to Section 12(a)(2)(L) of FIFRA and is a violation for which penalties may be assessed pursuant to Section 14(a) of FIFRA.

### **TERMS OF SETTLEMENT**

19. Respondent hereby certifies that it has voluntarily cancelled the FIFRA establishment registration for the Facility at 200 Providence Street, West Warwick, RI (previously assigned the pesticide-producing establishment number 034310-RI-001).

20. In light of the above, and taking into account the factors enumerated in Section 14(a) of FIFRA, EPA's May 2010 "Enforcement Response Policy for FIFRA Section 7(c) Establishment Reporting Requirements" (the "Penalty Policy"), and other factors as justice may require, EPA has determined that it is fair and appropriate to mitigate the entire civil penalty in this case such that Respondent pays no civil penalty in resolving this enforcement action.

21. Notwithstanding the preceding Paragraphs 19 and 20, in the event that, within 5 years of the effective date of this CAFO, Respondent re-registers the Facility as a pesticide-producing establishment and violates any FIFRA Section 7 reporting requirements, a stipulated civil penalty of \$1,200, plus interest, shall immediately become due and owing from Respondent, without demand by EPA, within thirty (30) calendar days of notification of such violation by EPA. Interest on such stipulated penalty shall be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2), and shall accrue from the effective date of this CAFO until the date Respondent pays the stipulated penalty owed, in full, under this paragraph.

22. Respondent shall pay the \$1,200 civil penalty, plus all accrued interest, within thirty (30) days of the date of the triggering events, as specified in the preceding Paragraph 21, and shall make payment by submitting a check, to the order of the "Treasurer, United States of America" in the amount of \$1,200, plus interest, to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

and shall provide copies of the check to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 1 (Mail Code ORA 18-1)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

and:

Kan Tham, FIFRA Enforcement Coordinator  
U.S. Environmental Protection Agency  
Region 1 (Mail Code OES 05-4)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Respondent shall include the case name and docket number (*In re: Bradford Soap International, Inc.*, FIFRA-01-2014-0061) on the face of the check.

23. If Respondent fails to pay the stipulated penalty, it will be subject to an action to compel payment, plus interest, enforcement expenses and a nonpayment penalty. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States, as well as a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the stipulated penalty (or any portion thereof) on the date it is due under this CAFO if such penalty (or portion thereof) is not paid in full by such due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). In addition, a penalty charge of six percent (6%) per year and an amount to cover the costs of collection will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty

charge on the debt be required, it will be assessed as of the first day payment is due, under 31 C.F.R. § 901.9(d).

24. The stipulated penalty due and any interest, non-payment penalties or charges that arise pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deductible for the purposes of Federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Internal Revenue Service regulations, including 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under Federal, State or local law. EPA may decide, in its sole discretion, not to seek stipulated penalties or to waive any portion of the stipulated penalties that may accrue pursuant to this CAFO.

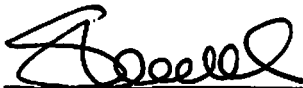
25. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 14(a) of FIFRA, for the specific violation alleged in this CAFO. This CAFO in no way relieves Respondent of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to take any action to address imminent hazards. In the event of a violation of FIFRA reporting requirements triggering payment of a stipulated penalty pursuant to paragraph 21 above, EPA specifically reserves all criminal and civil enforcement authorities related to such violation, including the ability to assess penalties in addition to the stipulated penalty. Compliance with this CAFO shall not be a defense to any action subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with said laws and regulations.



26. Each Party shall bear its own costs and attorneys' fees in the action resolved by this CAFO, and Respondent specifically waives its right to seek attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. § 504.

27. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

For Respondent:



(Signature)

EVF ! CFO

(Title)

8/26/2014


(Date)

STUART R. BENTON

(Print Name)

Bradford Soap International, Inc.  
200 Providence Street  
West Warwick, RI

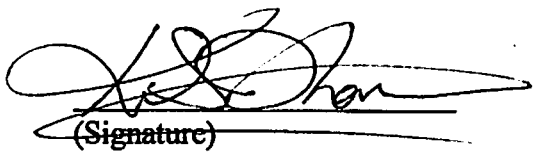
For U.S. EPA - Region 1:



(Signature)

Joanna B. Jerison, Legal Enforcement Manager  
Office of Environmental Stewardship  
U.S. EPA - Region 1

9/9/14  
(Date)



(Signature)

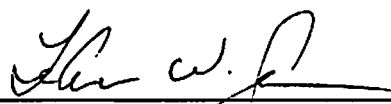
Kan Tham, FIFRA Enforcement Coordinator  
Toxics and Pesticides Unit  
Office of Environmental Stewardship  
U.S. EPA - Region 1

9/8/2014  
(Date)

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent, Bradford Soap International, Inc., is hereby ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

9/11/14  
(Date)

  
LeAnn W. Jensen, Acting Regional Judicial Officer  
U.S. EPA - Region 1

**CERTIFICATE OF SERVICE**

I certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER (Docket No. FIFRA-01-2013-0061) was sent to the following persons, in the manner specified on the date below:

Original and one copy  
hand delivered:

Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Sq., Suite 1100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

Copy, via Certified Mail,

Phil Young, Director – Safety, Env't, Health &  
Security  
Bradford Soap International, Inc.  
200 Providence Street  
West Warwick, Rhode Island 02893

Copy, via First Class Mail,

John Howland, Chairman, President & CEO  
Bradford Soap International, Inc.  
200 Providence Street  
West Warwick, Rhode Island 02893

Copy, via First Class Mail,

Ken Ayars, Director, RI DEM, Division of  
Agriculture  
235 Promenade Street  
Providence, RI 02908-5767

Date:

9/17/2014



Kan S. Tham, FIFRA Enforcement Coordinator  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region I  
5 Post Office Sq., Suite 100  
Mail Code: OES05-4  
Boston, MA 02109-3912  
tel: (617) 918-1872  
email: tham.kan@epa.gov